

Memorandum of Decision: 04-20191218R
Sales Tax
For Tax Years 2018

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HOLDING

Purchase of utility vehicle was partially exempt from sales tax.

ISSUE

I. Sales Tax—Agricultural Exemption

Authority: IC § 6-2.5-2-1; IC § 6-2.5-1-2; IC § 6-2.5-4-1; IC § 6-2.5-5-2; [45 IAC 2.2-2-1](#); [45 IAC 2.2-5-4](#).

Taxpayer protests the imposition of sales tax on the purchase of a utility vehicle.

STATEMENT OF FACTS

Taxpayer is a Kentucky farmer who purchased a utility vehicle from an Indiana dealership in 2018. At the time of the purchase, Taxpayer was charged Indiana sales tax in the amount of \$621.50. Taxpayer believed his agricultural use of the utility vehicle made the purchase tax exempt. As such, Taxpayer filed a refund claim for the Indiana sales tax. The Department asked Taxpayer to complete a Form AGQ-100 to explain the utility vehicle's agricultural use. Taxpayer failed to provide this form and thus the Department denied Taxpayer's claim. Taxpayer protested the Department's denial and provided a completed Form AGQ-100. Taxpayer provided a Protest Submission Form indicating his desire to waive his right to a hearing. This decision is therefore based on information provided by the Taxpayer. Further facts will be supplied as necessary.

I. Sales Tax—Agricultural Exemption

Taxpayer, a Kentucky farmer, purchased a utility vehicle from an Indiana dealership. The dealership collected Indiana sales tax at the time of the purchase. Taxpayer has a Kentucky Farm Exemption Certificate which summarily exempts purchases of "Farm machinery, attachments and repair/replacement parts therefor." Based on this certificate, Taxpayer believed that the purchase should be exempt from tax based on his agricultural use of the utility vehicle.

Indiana imposes a sales tax on retail transactions made in Indiana. IC § 6-2.5-2-1(a); [45 IAC 2.2-2-1](#). A retail transaction is a transaction made by a retail merchant that constitutes "selling at retail." IC § 6-2.5-1-2(a). Selling at retail occurs when a person "(1) acquires tangible personal property for the purpose of resale; and (2) transfers that property to another person for consideration." IC § 6-2.5-4-1(b). A person who acquires tangible personal property in a retail transaction (a "retail purchaser") is liable for the sales tax on the transaction. IC § 6-2.5-2-1(b).

The legislature has provided for a general sales tax exemption for agricultural machinery, tools and equipment:

Transactions involving agricultural machinery, tools, and equipment, including material handling equipment purchased for the purpose of transporting materials into activities described in this subsection from an onsite location, are exempt from the state gross retail tax if the person acquiring that property acquires it for the person's direct use in the direct production, extraction, harvesting, or processing of agricultural commodities. IC § 6-2.5-5-2.

However, not all agricultural machinery, tools and equipment used in the production of agricultural commodities are exempt from tax. Pursuant to [45 IAC 2.2-5-4\(e\)](#):

The fact that an item is purchased for use on the farm does not necessarily make it exempt from sale [sic] tax. It must be directly used by the farmer in the direct production of agricultural products. The property

in question **must have an immediate effect on the article being produced**. Property has an immediate effect on the article being produced if it is an essential and integral part of an integrated process which produces agricultural products. **The fact that a piece of equipment is convenient, necessary, or essential to farming is insufficient in itself to determine if it is used directly in direct production as required to be exempt.**

(Emphasis added).

Had the purchase taken place in Kentucky, it may very well have been exempt from sales tax. However, because the purchase took place in Indiana, the Department must look to Taxpayer's use of the vehicle to determine whether and how much of an exemption should apply. Taxpayer completed a Form AGQ-100 indicating his use of the utility vehicle. The majority of Taxpayer's uses of the utility vehicle, while necessary to conduct the business of farming, were not exempt from Indiana sales tax as they did not have an immediate effect on the items being produced. However, the Department agrees that Taxpayer's use of the vehicle for the application of fertilizer and the application of insecticide/fungicide were exempt uses. According to Taxpayer, the utility vehicle was used for these purposes for a total of thirteen days in a year's time or for 3.6 percent of the year. Therefore, Taxpayer is entitled to an exemption equal to 3.6 percent of the sales tax collected, or \$22.37. For future reference, Taxpayer is encouraged to obtain an Indiana exemption certificate for purchases he makes in Indiana.

FINDING

Taxpayer's protest is denied in part and sustained in part.

December 19, 2019

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